



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

March 3, 2004

MEMORANDUM

TO: State Board of Education

FROM: Thomas D. Watkins, Jr., *Chairman*

SUBJECT: Report on Status of Legislation

The Michigan Legislature has been reviewing various issues regarding intermediate school districts during 2003 and 2004. The result of this activity has been the introduction of close to twenty bills during the current legislative session.

Last year, the House Education Committee created the ISD Review Subcommittee chaired by Representative Ruth Johnson (R-Holly). This subcommittee has met many times during the latter part of 2003 and the early part of 2004. Last month, the subcommittee issued a series of subpoenas to employees of the Oakland ISD. It is expected the subcommittee will meet throughout the spring and make additional recommendations regarding ISD reform legislation.

Currently, the House Education Committee is reviewing seven bills. These bills are likely to be reported out of committee early this month. As indicated above, this legislation is the first phase of what is likely to be additional packages of ISD "reform" legislation. The current package of bills primarily focuses on governance of ISD boards. Key provisions of this legislative package include: addressing several recall provisions for ISD boards, developing a stronger budget approval process, creating a more detailed state audit review, and forming an "accountability" board to replace an ISD board that fails to meet its responsibility.

Attached are a series of documents that will help clarify and elaborate on this package. These attachments include:

1. A table that summarizes each of the bills currently being addressed by the House Education Committee. The table has a "Suggested Recommendation" column, which the Board may wish to confirm.
2. Copies of the ISD legislation along with department bill analyses of each of the bills being taken up by the House Education Committee.

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3. A copy of the testimony recently given to the ISD Review Subcommittee by Superintendent Watkins.

This package is probably just the first phase of ISD legislation. Bills detailing conflicts of interest and other concerns are likely to be addressed later in the year.

Also attached are Senate Bills 943 and 944, along with the analyses. Senate Bill 943 revises the school code requirements for instruction in sex education. Senate Bill 944 revises the school code to attach financial penalties and provides for a complaint process related to instruction in sex education. These two bills have recently generated a great deal of discussion and controversy.

If you have questions, comments, or concerns, please do not hesitate to contact Bob Morris at 517-241-4993, or via e-mail at morrisrk@michigan.gov.

It is recommended that the State Board of Education receive the Report on Status of Legislation as provided in the Superintendent's memorandum dated March 3, 2004.

**DRAFT Review – ISD Package before House Education Committee
On February 26**

Bill	Sponsor	Short Summary	Issues	Suggested Recommendation
HB 4338	Johnson	Creates changes in creation of ISD Board. It allows three types of ISD recall. And, makes it easier to allow for elections of ISD boards. Prohibits members on ISD board from being any kind of elected official.	<p>Creates 3 types of recall:</p> <ol style="list-style-type: none"> 1. Recall by electorate 2. Recall by local school boards 3. Recall by Governor <p>Allows and sets up process for Governor to recall ISD and school board members.</p> <p>Allows easier placement of direct election of ISDs to be placed on ballot.</p>	<p>Support with amendments:</p> <p>Oppose recall by electorate (except for ISDs where general population elects ISD board members), since they did not place members on ISD board.</p> <p>Oppose easier placement of direct election of ISD. There are already too many elections where the public does not seem knowledgeable of candidates running for office. Also, this could allow easier special interest control of ISD.</p>
HB 4935	Johnson	The majority of an ISD electorate could create an “accountability” board to replace ISD board.	<p>An accountability board could be created if 25% of the number of votes cast for governor within ISD boundaries.</p> <p>State Superintendent would appoint board within 30 days. Appointing authorities are:</p> <ul style="list-style-type: none"> 4 by vote of local school superintendents 1 by the Governor 1 by the Senate Majority Leader 	<p>Oppose.</p> <p>This bill creates a new layer of government that probably is not necessary since HB 4338 creates a recall process. In addition HB 5458 will create more active involvement by school boards in the ISD budget process.</p>

			1 by the Speaker.	
HB 4947	Gleason	Requires open meetings and appointment of ISD board member 21 days in before June 1.		Support
HB 5376	Caswell	Requires school districts to post bid advertisements for construction and repair work on building on either DMB web site or a local sight designated by DMB.		Neutral Trying to confirm DMB position
HB 5530	Stahl	Legislation codifies existing MDE rule to create ISD special education parent advisory committee.	This language is exactly the same language as in existing rules.	Neutral
HB 5458	Woodward	Sets up time frames for local school districts to approve ISD budgets. The ISD must revise budget if one local school district raises a concern.	The sponsor's intent is not to have one local school system be able to, essentially, veto an ISD budget. He is planning to propose suggested amendments to require ISD budget adoption only after a majority of school district superintendents vote in favor of the proposed ISD budget.	Support with amendments
HB 5457	Palmer	The legislation requires the Department of Treasury to perform five random financial audits every two years on ISDs.	The legislation is silent as to the funding mechanism to support the new function. Rep. Palmer has suggested that ISDs would have to pay the additional costs.	Oppose Dept. of Treasury is opposed to bills unless there is a funding mechanism.



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BILL ANALYSIS - DRAFT

BILL NUMBER: House Bill 4338 (As Introduced)
TOPIC: Intermediate School District Board Election
SPONSOR: Representative Ruth Johnson
CO-SPONSORS: Representatives Drolet, Rocca, Woodward and Voorhees
COMMITTEE: Education
Analysis Done: October 7, 2003

POSITION

PROBLEM/BACKGROUND

Most intermediate school district (ISD) boards are elected biennially on the first Monday in June by a body composed of one member of the board of each constituent school district. A popular election of ISD board members may be held if that method is approved by school electors. There are currently four ISD boards that are elected by the voters. Board members that are not selected by popular election are not subject to recall. Concerns regarding the lack of ability of school electors to recall appointed ISD board members have been raised by constituents.

DESCRIPTION OF BILL

Beginning July 1, 2004:

- The bill would require all ISDs to have a seven member school board elected by the voters. A June 2004 election would be held to replace ISDs with appointed boards with the elected board effective July 1, 2004.
- A board member of a constituent school district would not be eligible to serve as an ISD board member. An ISD board member would not be able to hold any other elective public office.
- All officers would be required to be members of the ISD board. (Under current law, only the president and vice president are required to be board members.)
- Current law for dissolving ISDs would be amended to provide for the "disorganization" of an ISD.

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SUMMARY OF ARGUMENTS

Pro

- Requiring a popular election of ISD school boards would provide constituents with more control over who is serving on the board.
- Elected board members are subject to recall provisions.

Con

- Urban districts within an ISD have significantly more school electors than smaller constituent districts within that same ISD and would have more influence on which candidates are elected for the ISD board. This could result in the ISD board not being representative of the entire region.

ISDs serve the local districts and consider the local boards to be their customers. When local boards are elected, they are given the responsibility to represent their communities in their decision making, including in the ISD board election process.

The option to have an elected board already exists. Current law allows an ISD to submit to school electors of the constituent school districts a question to adopt the requirement to establish an elected ISD school board. An ISD is required to present this question to school electors of the constituent districts if a majority of the boards of the constituent districts which represent more than ½ of the combined memberships adopts a resolution to seek school elector approval to require an elected ISD school board.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: None.

Revenue:

Comments:

(b) State

Budgetary: None.

Revenue:

Comments:

(c) Local Government

Comments: There would be costs incurred to hold the election.

OTHER STATE DEPARTMENTS

Secretary of State, Bureau of Elections.

ANY OTHER PERTINENT INFORMATION

- House Resolution 60 provides subpoena power to the House Education Committee's Subcommittee on Intermediate School District Review. The resolution was specific to Oakland Schools. The subcommittee met on June 12, 2003, to begin its review.

Representative Ruth Johnson has introduced a package of bills (HB 4934, HB 4935, HB 5025, and HB 5043) in response to concerns she has received regarding ISD boards.

ADMINISTRATIVE RULES IMPACT

N/A.



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BILL ANALYSIS - DRAFT

BILL NUMBER: House Bill 4947 (As Introduced)
TOPIC: Intermediate School District Board Voting
SPONSOR: Representative John Gleason
CO-SPONSORS: Representatives Lipsey, Bieda, DeRoche, Steil, Meisner, Clack, Plakas, Cheeks and Ruth Johnson
COMMITTEE: Education
Analysis Done: October 7, 2003

POSITION

PROBLEM/BACKGROUND

Most intermediate school district (ISD) boards are elected biennially on the first Monday in June by a body composed of one member of the board of each constituent school district. In 1978, Attorney General Opinion No. 5412 stated that the designated electors of constituent school districts may elect members of an intermediate school board by secret ballot. The designated electors of the constituent districts are not subject to the Open Meetings Act.

DESCRIPTION OF BILL

- The bill would require each constituent local school district board to publicly disclose their vote for the ISD board candidate through a resolution.
- The board of a constituent district would be required to designate a representative by resolution adopted not later than 21 days before the biennial election of an ISD school board.
- Each constituent school board would be required to identify the candidate the board supports for each position to be filled on the ISD board and to direct its representative to vote for that individual or individuals.

SUMMARY OF ARGUMENTS

Pro

- Provides public accountability by disclosing local school board votes during an ISD board election.

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Con

- The designated electors of the constituent districts are not subject to the *Open Meetings Act*. The bill does not require compliance with the *Open Meetings Act*.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: None.

Revenue: None.

Comments: N/A.

(b) State

Budgetary: None.

Revenue: None.

Comments:

(c) Local Government

Comments:

OTHER STATE DEPARTMENTS

None.

ANY OTHER PERTINENT INFORMATION

A similar bill (HB 4979) has been introduced by Representative Minore. The bill has been referred to the House Government and Urban Policy Committee. In addition, Senator Cherry introduced similar legislation (SB 643). That bill has been referred to the Senate Education Committee.

ADMINISTRATIVE RULES IMPACT

N/A.



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BILL ANALYSIS - DRAFT

BILL NUMBER: House Bill 4935 (As Introduced)
TOPIC: Intermediate School District Reform Board
SPONSOR: Representative Ruth Johnson
CO-SPONSORS: Representatives Drolet, Brandenburg, Bradstreet, Rocca, Amos, Garfield, Stakoe, Pappageorge, Robertson, and Hoogendyk
COMMITTEE: Education
Analysis Done: October 7, 2003

POSITION

PROBLEM/BACKGROUND

Concerns have been raised by constituents requesting options that would allow intermediate school district (ISD) takeover.

DESCRIPTION OF BILL

- The bill would allow the placement of an issue on a ballot that puts the governance of the ISD under a reform board. An election to place an ISD under a reform board would be required if a sufficient number of school electors petition the ISD board or at least ½ of the constituent districts within a 120 day period submit resolutions to the ISD requesting an election. If approved by school electors, the State Superintendent and superintendents of constituent districts would appoint members to the reform board. Members of the reform board serve at will to the official or group who appointed the member.

Beginning 30 days after the election, the powers and duties of the ISD board are transferred to the reform board. The reform board may terminate any contract signed by the ISD board except for collective bargaining agreements and obligations to pay debt service on legally authorized bonds. Each ISD employee that is not covered by a collective bargaining agreement serves at the will of the reform board.

- The question of whether to retain the reform board would be placed on the ballot five years after the initial appointment of the reform board. The reform board would continue if the question is approved. The next ballot question to retain the reform board would not be held until the expiration of five years after the election at which the question was approved. If the question is not approved,

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the reform board would arrange for the selection of a new elected ISD board at a special election. The powers and duties would be transferred back to the ISD board.

SUMMARY OF ARGUMENTS

Pro

- Provides school electors with an option to replace an existing ISD board.

Con

- Requiring an ISD reform board is an extremely drastic response to concerns about ISD boards. Other options should be pursued such as the establishment of a process to recall ISD board members that are elected by constituent districts.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: None.

Revenue: None.

Comments: N/A.

(b) State

Budgetary: None.

Revenue: None.

Comments: N/A.

(c) Local Government

Comments: There would be costs incurred to hold the election.

OTHER STATE DEPARTMENTS

Secretary of State, Bureau of Elections.

ANY OTHER PERTINENT INFORMATION

House Resolution 60 provides subpoena power to the House Education Committee's Subcommittee on Intermediate School District Review. The resolution was specific to Oakland Schools. The subcommittee meeting met on June 12, 2003, to begin its review.

- Representative Ruth Johnson has introduced a package of bills (HB 4338, HB 4934, HB 5025, and HB 5043) in response to her concerns she has received regarding ISD boards.

ADMINISTRATIVE RULES IMPACT

N/A.



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BILL ANALYSIS - DRAFT

BILL NUMBER: House Bill 5376 (As Introduced)
TOPIC: Bidding Procedures
SPONSOR: Representative Bruce Caswell
CO-SPONSORS: Representatives Nitz, Milosch, Garfield, Stewart, Emmons, Huizenga, Wenke, Pappageorge, Middaugh, Stahl, Sheen, Ehardt, Mortimer, Newell, Kooiman, DeRossett, Amos, Hummel Brandenburg, Taub, Farhat, Drolet, Meyer and Voorhees
COMMITTEE: Education
Analysis Done: January 22, 2004

POSITION

PROBLEM/BACKGROUND

Some people have identified a need for a more uniform process for school districts to advertise for bids for construction, repair or renovation on a school building.

DESCRIPTION OF BILL

House Bill 5376 would require school districts to post an advertisement for bids for construction, repair, or renovation on a school building for at least two weeks on the Department of Management and Budget (DMB) website or a website maintained by a school organization designated by DMB. DMB would be required to include a link to the school organization website.

SUMMARY OF ARGUMENTS

Pro

- Vendors would have more opportunities to review and bid on contracts.
- Vendors would be able to review all requests for bids in a single electronic location.

Con

- It may be restrictive to require the advertisement for bids to be posted for two weeks if repairs need to be made quickly.

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FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: None.

Revenue:

Comments:

(b) State

Budgetary: None.

Revenue: None.

Comments:

(c) Local Government

Comments: School districts may incur cost savings if lower bids are submitted by vendors.

OTHER STATE DEPARTMENTS

Department of Management and Budget.

ANY OTHER PERTINENT INFORMATION

House Bills 4720 and 4722 would create a cooperative bulk purchasing program for public schools that is currently administered by the Department of Management and Budget. The bills passed the House in October and have been referred to the Senate Education Committee.

ADMINISTRATIVE RULES IMPACT

N/A.



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BILL ANALYSIS - DRAFT

BILL NUMBER: House Bill 5458 (As Introduced)
TOPIC: Intermediate School District Budget Approval
SPONSOR: Representative Dave Woodward
CO-SPONSORS: None
COMMITTEE: Education
Analysis Done: February 23, 2004

POSITION

PROBLEM/BACKGROUND

Concerns have been raised by constituents regarding the financial management of intermediate school districts (ISDs).

DESCRIPTION OF BILL

- Current law requires the ISD board to submit the proposed budget, for review, to a meeting of one board member named from each constituent district to represent the district. House Bill 5458 would require an ISD to submit a proposed budget for the next school year to the board of each constituent school district for review not later than May 1 of each year. By May 15, the board of each constituent school district would be required to adopt and submit a resolution to the ISD either approving or disapproving the budget. If the budget is not approved, the constituent school board would be required to include specific objections and proposed changes to the budget.

The ISD would be required to revise the proposed budget if at least one resolution disapproving the budget is received from the constituent districts. Not later than June 1, a revised budget is required to be submitted to a meeting of one board member from each constituent district for review and approval. A majority vote of the representatives of the constituent districts is required for the revised budget to be approved.

SUMMARY OF ARGUMENTS

Pro

- The bill would encourage broader participation in the approval of the ISD budget with all board members in each constituent district.

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Con

- To require revision of a proposed budget based upon a single objection is overly burdensome.
- The current system already includes review of the budget by representatives of all the local district boards.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: None.

Revenue: None

Comments:

(b) State

Budgetary: None

Revenue: None.

Comments:

(c) Local Government

Comments: There would be costs incurred by the ISD and the constituent local districts in conducting the additional board meetings and increased administrative costs in dealing with the local resolutions.

OTHER STATE DEPARTMENTS

None.

ANY OTHER PERTINENT INFORMATION

The House has introduced a package of bills that would address concerns raised by constituents regarding ISDs. The bills have been referred to the House Education Committee.

ADMINISTRATIVE RULES IMPACT

N/A.



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BILL ANALYSIS - DRAFT

BILL NUMBER: House Bill 5457
TOPIC: Intermediate School District Financial Audits
SPONSOR: Representative Brian Palmer
CO-SPONSORS: None
COMMITTEE: Education
Analysis Done: February 23, 2004

POSITION

PROBLEM/BACKGROUND

Concerns have been raised by constituents requesting financial audits of intermediate school districts (ISDs).

DESCRIPTION OF BILL

House Bill 5457 would amend the Revised School Code to require the Department of Treasury to conduct random financial audits of at least five ISDs every two years. The Department of Treasury would establish a date each year to announce the ISDs that would be audited that year. The audits would begin within two business days after the announcement. A report of each audit would be required to be submitted to the house and senate education committees.

SUMMARY OF ARGUMENTS

Pro

The Department of Treasury may identify concerns that were not discovered in the annual audit that was prepared by a certified public accountant.

Con

- The Department of Treasury already has the authority to audit ISDs.

Current law requires intermediate school districts to have financial audits conducted at least annually by a certified public accountant [MCL 380.622]. An additional audit done by the Department of Treasury is redundant and unnecessary.

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The Department of Treasury may not have the staff and resources that would be required to implement this new provision.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: None.

Revenue: None.

Comments:

(b) State

Budgetary: See comments.

Revenue:

Comments: The Department of Treasury would incur costs to implement this requirement.

(c) Local Government

Comments: N/A.

OTHER STATE DEPARTMENTS

Treasury.

ANY OTHER PERTINENT INFORMATION

The House has introduced a package of bills that would address concerns raised by constituents regarding ISDs. The bills have been referred to the House Education Committee.

ADMINISTRATIVE RULES IMPACT

N/A.



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BILL ANALYSIS - DRAFT

BILL NUMBER: House Bill 5530

TOPIC: Special Education Parent Advisory Committee

SPONSOR: Representative Stahl

CO-SPONSORS: Representatives Ward, Taub, Voorhees, Palmer, Hummel, Pastor, Moolenaar, Meyer, Gaffney, Hager, Kooiman, Mortimer, Ruth Johnson, Hoogendyk, Rocca, Gleason, DeRoche, Wenke, Stakoe and Bradstreet.

COMMITTEE: Education

Analysis Done: February 23, 2004

POSITION

Department staff does not believe this bill is necessary.

PROBLEM/BACKGROUND

Some believe that the parent advisory committee requirements in R 340.1838 should be required by statute.

DESCRIPTION OF BILL

House Bill 5530 codifies Rule 340.1838, "Parent Advisory Committee." The bill language is almost identical to the rule language.

SUMMARY OF ARGUMENTS

Pro:

- The bill codifies an existing administrative rule. Rule 340.1838 is not required under the Individuals with Disabilities Education Act (IDEA); therefore the rule is not required in order for the state to receive federal funding under the IDEA. The Department could eliminate the rule without jeopardizing the federal IDEA dollars.

Con:

- The rule that this bill would replace has been in the administrative rules since 1979. The Department has updated the rule to include public school academies but has not substantially changed the rule since its inception in 1979.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: None.

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Revenue:

Comments: There are no fiscal implications.

(b) State

Budgetary: None.

Revenue:

Comments: There are no fiscal implications.

(c) Local Government

Comments: There are no fiscal implications

OTHER STATE DEPARTMENTS

None.

ANY OTHER PERTINENT INFORMATION

- Administrative rules are subject to requirements under the *Administrators Procedures Act* (APA). The rules promulgation process requires that all rules are subject to public hearings before any changes can be made to the rules. The APA assures that the public would have an opportunity to comment on any rule changes that may be proposed. Additionally, the Special Education Advisory Committee, mandated by the IDEA, would have the opportunity to review any proposed rule changes and all public comment before making a recommendation to the State Board of Education. 51 percent of the SEAC membership must be comprised of parents of students with disabilities or persons with disabilities.

Rule 340.1701, Assurance of Compliance allows for complaints against the administrative rules for special education. Since 1999, four complaints have been filed regarding Rule 340.1838, The Parent Advisory Committee. Of those complaints, three were determined to be valid and corrective action was directed. The Department received proof of compliance and the case was closed.

ADMINISTRATIVE RULES IMPACT

Rule 340.1838 would be redundant if HB 5530 becomes law.



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Tom Watkins, State Superintendent of Public Instruction, presentation to the House Education Committee – ISD Review Subcommittee on Thursday, February 12, 2004, Room 326 House Office Building, 11:00 a.m. or after session.

Representative Johnson, members of the Intermediate School District (ISD) Review Subcommittee, thank you for the opportunity to share a few thoughts regarding Michigan's Intermediate School District accountability.

I believe in fiscal stewardship that demands accountability for every taxpayer dollar. Abuses that have been widely reported are egregious, at best.

Let me be very clear, Governor Granholm, the Department of Education, and the State Board of Education stand behind strong accountability measures for all of Michigan schools, be they traditional schools, charter schools or ISDs.

Representative Johnson, I thank you for your pursuit of the issues of accountability and efforts to make sure every dollar that is available benefits our children. Educators throughout Michigan share that passion. Many of these educators receive excellent professional development from their Intermediate School Districts.

One of the great joys that I have in the role of State Superintendent of Public Instruction is to travel the state, visit classrooms and actually see the education investment come alive as Michigan's 100,000 teachers, our unsung heroes, touch our future – our children. These children – who will be our future scientists, mathematicians, engineers, artists, lawyers, state legislators, governors and presidents – are sitting in our classrooms today. It is their imaginations being sparked and their creative juices being tapped by our great teachers.

Your committee, while focusing on fixing the “problems” at the Oakland Schools also should take the time to celebrate the heroes at the agency that risked their career to put children first. So as this process moves forward, let's spend an equal amount of time celebrating what is right about the nursery of our democracy, our neighborhood public schools and intermediate school districts, as we go about fixing what went awry at Oakland Schools.

President Clinton, at his first Inaugural address stated: “There is nothing so wrong with America that cannot be fixed by what is right about America.”

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Things went terribly wrong at Oakland Schools. Under the leadership of interim Superintendent Bill Keane and the watchful eye of a more engaged public, the problems appear to be on the road to being fixed.

So, to paraphrase President Clinton: "There is nothing so wrong with our system of public education which cannot be fixed by what is right about public education."

Regarding what's right about ISDs, let's remember all the good services they provide to our communities. Among the myriad services and programs delivered by the ISDs are:

- Completion of pupil counts used for accurate distribution of over \$11 billion in state aid
- Provision of centralized vocational education and special education
- Reduction of costs through economies of scale by using cooperative purchasing and the provision of cooperative services
 - Provision of professional development opportunities for teachers, administrators, paraprofessionals and support staff
- Provision of technical support to local districts and public school academies for mandated electronic reporting

In the context of budget and staff reductions in the Department of Education, we have increasingly called upon ISDs to perform work and operate programs that we have not had the capacity or staff to manage with the resources at hand. ISDs are an essential partner in delivering education services to our children.

Some specific examples where ISDs have provided collaborative and cooperative service for their local school districts include:

Wayne Regional Educational Service Agency (RESA) implemented bulk purchasing of school supplies and instructional media that realizes a 50% cost savings as compared to list prices. (The majority of local school districts participate in bulk purchasing programs.)

Washtenaw and Kent ISDs operate an adaptive technology-on-loan program for special education students that eliminates the need for the local school districts to purchase items that may be used only for a limited time.

The Van Buren ISD provides each local school district with access to an online compliance program to meet the requirements of the Blood Borne Pathogens, Hazard Communication and to state and federal law update information.

Eaton, Ingham, Clinton, Shiawassee, and Livingston ISDs collaborate to operate a Summer Technology Academy offering over 200 courses for teachers in the area of integrating technology into the classroom.

Many ISDs provide conference facilities to their local districts.

Madame Chair, one of the questions you asked is what tools the Michigan Department of Education and the State Board of Education have to ensure ISD accountability.

The state provides oversight and monitoring to assure compliance with state and federal guidelines. We do not have the same statutory authority over local millage dollars. ISDs receive most of their operating funding from local millages. Our oversight has been in the area of reviewing federal and state grant programs managed by ISDs and through review of audit recommendations made by auditors. To put this in perspective, this year Oakland Schools will receive about \$50 million in state and federal funds and nearly \$180 million of their total revenues of \$230 million from local millage funds.

Our Office of Audits receives and reviews financial audits of federal funds flowing through ISDs. Currently, two federally funded auditors review local, independent CPA audits of local districts and ISDs. The quality of work by the CPA firms, as well as recommendations or "footnotes" are reviewed. If issues of concern are identified, the ISDs are required to develop a Corrective Action Plan for implementation. ISDs are required to correct items of noncompliance or risk having funds withheld. Local millage funds are under the purview of a local ISD and its board.

In 2001, Oakland Schools' financial audit included a "related party" transaction footnote. Such a footnote is not uncommon in our reviews. The Department's goal in regards to a "related party" transaction footnote is to determine that the required conflict of interest disclosures were made and that the transactions were made at fair market values. In a May 2002 letter, the President of the Board of Education of Oakland Schools indicated that the Oakland Schools Board was indeed aware of the "related party" transaction. In this case the issue was the disclosure that Oakland Schools Superintendent Redmond was also the Board Chairman for the MINDS institute.

State School Aid, which is estimated at over \$11 billion for FY 04, is allocated to school districts in the form of general aid and categorical aid. The amount of general aid allocated to each district is based on the number of full-time pupils counted by the district on the count dates. The local district pupil counts are audited by the Intermediate School Districts.

The Department is responsible for providing guidance to the ISD auditors and overseeing the quality of these audits. State budget cuts have curtailed much of this activity. However, ISDs and their auditors are exceedingly effective in this work. Their work has become a significant part of the control system over the accuracy of pupil counts.

Oakland Schools has been a leader in improving the quality of pupil accounting audits. They have provided training at statewide conferences and have assisted the Department in updating our Pupil Auditing Manual.

The Department of Education monitors Intermediate School District's federal special education funds. The Department disburses about \$270 million per year in federal funds for special education. Currently, ISDs submit applications to the department for use of these federal special education funds. We require the ISD to enter into an agreement with the state regarding program responsibilities. If the local ISD does not follow its agreement, the Department will withhold federal and state funds. Funding will be continued when the ISD takes corrective action on the particular item of concern. Attached is a five-year review of federal funds that the Department has withheld.

The \$1.7 million issue itemized in the attachment regarding Oakland Schools in 2000 stands out. In this case, we found that Oakland Schools was not performing appropriate oversight of special education dollars within a specific school district. The Department required Oakland Schools to return federal special education dollars. Oakland Schools complied and funding was continued.

When data or information is received regarding an intermediate school district, charter school or a local district and criminal activity is alleged or suspected, the information is forwarded to local law enforcement authorities, the State Police and/or the Attorney General's office for review. Here is a case in point regarding Oakland Schools. I received a letter from an Oakland Schools employee who requested anonymity concerning misdeeds. The letter was forwarded to the Attorney General's Office for review and action.

Accountability comes in other forms as well. For example:

- I choose to sit on the Detroit School Reform Board to be close to our largest school district. It gives me a monthly opportunity to see the strengths and the struggles of the Detroit Public Schools and to discern ways the state can be of assistance.
- Another example is the "bankruptcy" of Inkster Public Schools. The school system informed us they were irreparably insolvent. The Department stepped in using the Financial Distressed City Act (PA 72) and made this tool work to benefit students. After listening to the citizens and after due process hearings, an emergency financial manager was appointed and the local board of education was neutralized. The once distressed district has reported a balanced budget and is making slow, but steady progress in addressing the needs of their students.

Representative Johnson, you also inquired about how we can create more accountability and what type of legislation might be needed regarding ISD accountability.

As you have publicly stated, the vast majority of ISDs do an outstanding job of delivering services and providing necessary and appropriate assistance to their school districts. In fact, if ISDs did not exist, I would suggest creating them to assist in the efficient and effective delivery of services and programs to our local districts.

As the committee moves forward to address the Oakland Schools accountability issue, I caution you to use a scalpel and not an axe to correct the problems. Consider the delicate balance between appropriate oversight and Michigan's tradition of local control. Please be careful in passing an "expectation" law without providing the appropriations necessary to make the law a reality. Expecting MDOT to pave all of Michigan's roads without providing the resources is setting up false expectations and contributes toward the public cynicism of government.

It is important for the subcommittee to appreciate that the Department of Education has been decimated by budget and staff cuts over the past decade. The Department had a staff of 2000 FTEs in 1990. By 1998, the Department had 443 FTEs. Today we have approximately 300. Sixty-five people were lost to the 2002 early retirement offer and replacements were allowed on only a one in five basis.

In 1998, our General Fund appropriation was \$24.2 million. Today our General Fund appropriation is \$6.8 million – a 73% cut in general fund dollars. The Department of Education staff is second to none in working tirelessly to serve the public. Yet, realistically we cannot take more responsibility without the compensatory resources necessary to carry out our jobs.

I believe the first step is to preserve local control. One of the bills in your package, HB 4338, provides for a recall of ISD board members by the local school boards. Of all the options, I like this the best. If an ISD is misappropriating funds or otherwise demonstrating poor judgment, then let the people who created the ISD board and who are closest to the issue make the decision regarding any changes in the board. Obviously, as a believer in Open Meetings, I have no trouble supporting the Open Meeting provision of HB 4947.

I am looking forward to reviewing and understanding your complete package of legislation, especially the substitute bills that are being worked on. Until that task is completed, I will not comment on the ideas you may be contemplating.

The Department of Education has two specific recommendations:

The Department would like to augment each of the existing activities described above. As we have faced budget cuts and early retirements, each of these programs have been affected. If the Department received increased General Fund monies, we could do more.

The Department has many priorities to address including: No Child Left Behind implementation, responsive and accurate MEAP testing, providing required assistance to schools that fail to meet NCLB requirements, assisting with NCLB teacher certification, teacher professional training and so much more. Additional resources could be directed after the State's structural budget deficit is addressed.

With new funding, the state could develop a program to provide additional ISD oversight; under this recommendation we would add two FTE staff to our Audit Office. These staff would review nine ISDs per year, assuring that all ISDs would be reviewed in a three-year cycle. This review would include looking at existing activities and include reviewing the extent to which ISD programs are serving local schools.

In conclusion, our challenges are great and our resources are limited. I would prefer to tell you that providing state oversight by the Department will solve all future ISD issues -- but that would be improbable. Considering that the vast majority of ISDs do a great job, I strongly encourage you to allow local officials to make the wisest decisions for their communities. When additional General Fund dollars become available the Department of Education will review opportunities to strengthen oversight and enhance technical assistance and other support to local districts, charter schools, and to intermediate school districts.

Rest assured that the State Board of Education, the Governor, and the Department of Education will work with you to forge appropriate oversight and accountability. Thank you.

Michigan Department of Education
Office of Special Education and Early Intervention Services

Program Fiscal Reviews that were done where money was expended improperly and was due back to the Department of Education. The Program Fiscal Review process is a review of the expenditures of the federal IDEA (Individuals with Disabilities Education Act) grant funds.

FY 01-02 - \$44,461.60	FY 00-01 - \$1,752,530.00	FY 99-00 - \$7,076.56
Bay Arenac ISD \$2,620.00	Oakland Schls \$1,728,535.00	Genesee ISD \$756.56
Gogebic-Ontonagon ISD \$2,073.60	Washtenaw ISD \$23,995.00	Wayne RESA \$6,320.00
Iosco RESA \$1,303.00		
Macomb ISD \$38,465.00		

FY 98-99 - \$17,020.92	FY 97-98 - \$26,823.04
Lapeer ISD \$801.17	Clinton Co. RESA \$7,310.00
Macomb ISD \$7,876.25	COP ISD \$4,402.69
Midland ESA \$2,722.60	Kent ISD \$1,894.00
Muskegon ISD \$3,959.00	Manistee \$1,529.00
St. Clair Co. ISD \$1,661.90	Oakland Schls \$1,832.35
	Washtenaw ISD \$9,855.00

Tom Watkins' testimony to the ISD Subcommittee, February 12, 2004



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

BILL ANALYSIS - DRAFT

BILL NUMBER: Senate Bill 943 (As Introduced)

TOPIC: Sex Education Instruction

SPONSOR: Senator Wayne Kuipers

CO-SPONSORS: Senators Hardiman, Basham, VanWoerkom, Sanborn, Cropsey, Bishop, Goschka, Brown, Allen, Stamas, McManus, Birkholtz and Barcia

COMMITTEE: Education

Analysis Done: February 20, 2004

POSITION

Department of Education staff opposes the bill.

PROBLEM/BACKGROUND

Current law identifies multiple requirements for the approval and implementation of HIV/AIDS and sex education programs. The bill would amend the *Revised School Code* to ensure a stronger parent voice in choice of sex education materials in methods. It would also ensure that all sex education includes the same messages related to issues such as abstinence, marriage, personal responsibility, and adoption.

DESCRIPTION OF BILL

- Senate Bill 943 would require teaching that abstinence from sexual activity is an effective method of preventing unplanned or out-of-wedlock pregnancy.
- A school board would determine the terms of service, number of members, and membership selection process for the health education advisory board. A majority of members of the advisory board would be parents that are not employed by the school district and that have a child or children attending a school that is operated by the school district. The remainder of the advisory board would be students enrolled in the school district, educators, local clergy, and community health professionals. A parent would be required to serve as chairperson of the advisory board. Written notice of an advisory board meeting would be required at least two weeks before the date of the meeting. The advisory board would be required to do all of the following:
 - Establish goals and objectives that would reduce the likelihood of adolescent sexual intercourse.
 - Review materials and methods of instruction used and make recommendations for implementation.
 - At least once every two years, develop procedures for evaluating, measuring, and reporting the attainment of program goals and objectives. The board would be required to make the resulting report available to parents in the school district.

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- Sex education instruction would be required to emphasize that abstinence from sexual intercourse is the expected behavior for unmarried people because it is the only protection that is 100% effective against unplanned pregnancy, sexually transmitted disease, and HIV/AIDS. Age appropriate material and instruction would be required to contain specific content regarding abstinence, responsibility, marriage and adoption.
- Senate Bill 943 is tie-barred to Senate Bill 944.

SUMMARY OF ARGUMENTS

Pro

- School districts implementing sex education programs would be required to teach students about important topics, such as sexual harassment and refusal skills.

The health education advisory board would be required to meet at least every two years to develop procedures for evaluating, measuring and reporting the attainment of program goals and objectives that are likely to reduce levels of adolescent sexual intercourse.

Con

- Current law already requires all school districts to teach about abstinence from sex as a responsible method of prevention and a positive lifestyle for unmarried young people. The 2003 State Board of Education *Policy to Promote Health and Prevent Disease and Pregnancy* further emphasizes that abstinence is stressed as the only certain way to avoid these serious outcomes.

Local school district control and decision-making would be diminished by imposing a series of additional provisions that may or may not be consistent with local community standards.

- There is no other school arena that is required by law to have parents comprise the majority of a committee's members or serve in a primary leadership role. This provision is counter to the *National Standards for Parent /Family Involvement Programs* that support equal representation by all stakeholders within a site-based management framework. Further, parents who have a dual role as employees of the district would be excluded from participation.
- School districts offering sex education programs would be required to implement specific content regarding abstinence, refusal skills, marriage, sexual harassment, and legal statutes, without any provisions or resources for curriculum development and teacher training. The time and resources required to meet this mandate are out of proportion given all of the other pressures and mandates that schools face on a daily basis. While sex education is important to students' health and well-being, it is only a fraction of their K-12 educational experience.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: See comments.

Revenue: None.

Comments: The Department would need to provide significant technical assistance to local districts and ensure compliance with all the additional requirements of the bill. The Department currently receives no state funding to support this function.

(b) State

Budgetary: None.

Revenue: None

Comments: N/A

(c) Local Government

Comments: The Schools would incur costs to develop new criteria for advisory board membership, appoint and train members, review all curricula K-12, purchase new materials, and train all teachers in new content, methods and materials.

OTHER STATE DEPARTMENTS

The Department of Community Health currently administers school health grants that provide training and support to local school districts in health education, including sex education.

ANY OTHER PERTINENT INFORMATION

- Current law identifies multiple requirements for the approval and implementation of HIV/AIDS and sex education programs and significant financial penalties for failing to comply with the requirements. See Attachment A for a summary of laws regarding HIV/AIDS and sex education in Michigan schools.
- In September 2003, the State Board of Education unanimously approved a *Policy to Promote Health and Prevent Disease and Pregnancy* that provides step-by-step recommendations for local school districts implementing sex education programs. The policy recommends that districts implement a parent survey. The survey is an additional mechanism for assuring that district decisions are representative of the views of the parents.
- Few other states in the country have laws that are this prescriptive regarding process and content of HIV/AIDS and sex education in schools. Many states include protections such as broad-based advisory committees, and parental rights to review materials and opt students out of instruction; specific content may be either required or prohibited. Few if any states, however, currently prescribe that the advisory committee be made up of a majority of parents or that the committee is chaired by a parent.

In 2003, over \$3,000,000 in federal, state, and local dollars were spent on abstinence-until-marriage (Michigan Abstinence Partnership Grant) programs and reached a total of 17,252 youth. The reported

percentage of Michigan public high school students who have had sexual intercourse has dropped from 49 percent in 1997 to 40 percent in 2001.

- A similar bill (HB 5477) was introduced in the House and has been referred to the House Education Committee.
- The Michigan Parent Teacher Student Association opposes SB 943 and SB 944

ADMINISTRATIVE RULES IMPACT

None.



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

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THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

BILL ANALYSIS - DRAFT

BILL NUMBER: Senate Bill 944 (As Introduced)
TOPIC: Sex Education Penalties
SPONSOR: Senator Bill Hardiman
CO-SPONSORS: Senators Kuipers, Basham, VanWoerkom, Sanborn, Cropsey, Bishop, Goschka, Brown, Allen, Stamas, McManus, Birkholz and Barcia
COMMITTEE: Education
Analysis Done: February 20, 2004

POSITION

Department of Education staff opposes the bill.

PROBLEM/BACKGROUND

Current law identifies multiple requirements for the approval and implementation of HIV/AIDS and sex education programs and attaches significant financial penalties for failing to comply with the requirements. The bill would amend the *State School Aid Act* to enforce provisions related to HIV and sex education. A clearer process would be provided for constituents to file complaints with the Department and would ensure swift follow-up with an investigation and the application of financial penalties when warranted.

DESCRIPTION OF BILL

- A district resident who believes that the district has violated specific provisions of Revised School Code or State School Aid Act related to HIV or sex education may file a complaint with the superintendent of public instruction.

The state superintendent would be required to order the Department to investigate the complaint and determine within 90 days whether or not the district would forfeit 5% of its state school aid.

The department would be required to establish a procedure for filing complaints.

Senate Bill 944 is tiebarred to Senate Bill 943

SUMMARY OF ARGUMENTS

Pro

The bill would provide a state level complaint process for individuals who believe that local districts have violated statutes regarding HIV and sex education.

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- The bill would encourage greater district compliance with state statutes through swift enforcement of provisions tied to state aid allocations.

Con

- There are no state dollars allocated to support the Department's activities as required in this bill. The Department would need to establish a procedure for complaints, provide significant technical assistance to local districts, conduct investigative follow-up, and make final determinations. These investigations are complex, time-consuming, and the final determinations can have serious financial implications for local school districts.
- The bill would undermine the relationship between local districts and their constituents by encouraging local constituents to bypass the local district and make formal complaints directly to the state. This is not consistent with state or federal statutes or policy.

The bill is unnecessary. Historically, the Department has worked collaboratively with local school districts, parents, and other concerned constituents to ensure compliance with federal and state statutes. Districts have been cooperative in the area of HIV/STD and sex education and are aware of the potential fiscal and public relations ramifications of noncompliance.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: See comments.

Revenue:

Comments: The Department would need to provide significant technical assistance to local districts. In addition, the Department would need to establish a procedure for complaints regarding HIV/STD or sex education, investigate all complaints, and make a final determination within ninety days. The Department currently receives no state funding to support these additional functions.

(b) State

Budgetary: None.

Revenue:

Comments:

(c) Local Government:

Comments: Districts would need to provide documentation in response to all Department investigations to demonstrate compliance with state statutes. Costs could be averted in many cases if complaints were filed directly with the local school district.

OTHER STATE DEPARTMENTS

The Michigan Department of Community Health administers school health grants that provide training and support to local districts in health education, including sex education.

ANY OTHER PERTINENT INFORMATION

- A similar bill (HB 5478) was introduced in the House and has been referred to the House Education Committee.
- The Michigan Parent Teacher Student Association opposes SB 943 and SB 944.

ADMINISTRATIVE RULES IMPACT

None.